

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

IN RE: NATIONAL FOOTBALL LEAGUE  
PLAYERS' CONCUSSION INJURY  
LITIGATION

No. 2:12-md-02323-AB

MDL No. 2323

THIS DOCUMENT RELATES TO:

<i>MAXWELL v. NFL, et al.</i>	12-cv-1023
<i>PEAR v. NFL, et al.</i>	12-cv-1025
<i>MONK v. NFL, et al.</i>	12-cv-3533
<i>HENDERSON v. NFL, et al.</i>	12-cv-3534
<i>KUECHENBERG v. NFL, et al.</i>	12-cv-3535
<i>BAUMAN v. NFL, et al.</i>	12-cv-4576
<i>BAILEY v. NFL, et al.</i>	12-cv-5372
<i>SWEET v. NFL, et al.</i>	12-cv-7214
<i>DUCKWORTH v. NFL</i>	13-cv-4231
<i>JANI v. NFL</i>	14-cv-2064

**Hon. Anita B. Brody**

**RIDDELL DEFENDANTS' SURREPLY IN OPPOSITION TO  
PLAINTIFFS' REPLY (ECF NO. 6776) AND MOTION TO  
SCHEDULE RULE 16 PRETRIAL CONFERENCE (ECF NO. 6753)**

The plaintiffs' reply in support of their motion to schedule a Rule 16(a) pretrial conference (ECF No. 6776) incorrectly asserts:

The Riddell Defendants first claim that this Court should not schedule a conference because this Court and the parties are still awaiting the Third Circuit's decision in *In re National Football League Player's Concussion Injury Litigation*, No. 14-8103, and because some of the Plaintiffs who have claims against Riddell in the above-captioned actions have opted-out of the settlement with the NFL that this Court approved. *See* ECF No. 6767 at 2-3. However, these assertions contradict the Riddell Defendants' request that the Court sever all claims against it and require the Plaintiffs to file individual actions against them alone because of a lack of common questions of law and fact. *See* Riddell Defendants Motion to Sever, ECF No. 3593. **Riddell previously argued that the Plaintiffs' claims against them should be pursued separately from the Plaintiffs' claims against the NFL**, and now they contend that the claims against them require waiting for a determination by the Third Circuit concerning the propriety of the Plaintiffs' settlement with the NFL.<sup>1</sup>

<sup>1</sup> (Pls.' Reply (ECF No. 6776) at 2 (emphasis added).)

Contrary to the plaintiffs' assertion, the Riddell defendants have not requested that the claims against them "be pursued separately from the Plaintiffs' claims against the NFL." Rather, the Riddell defendants' pending motion to sever (ECF No. 3593) showed that the plaintiffs' claims were misjoined with each other, and that, under prevailing authority, this misjoinder required both severance of the plaintiffs' claims from each other and that any plaintiffs wishing to pursue claims against the Riddell defendants must file separate, individual actions. The Riddell defendants did not request that the defendants be severed from each other, or that the claims against the Riddell defendants be severed from those against the NFL. The plaintiffs' assertion as quoted above is therefore incorrect.

Respectfully Submitted,

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**CERTIFICATE OF SERVICE**

The undersigned certifies that this document was electronically filed and served via ECF on all counsel of record registered to receive service via the Court's ECF system.

/s/ Paul G. Cereghini\_\_\_\_\_